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Writer's Direct Access

September 2, 2009

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**Via Electronic Filing**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: WT Docket No. 02-68  
WT Docket No. 03-66  
**Ex Parte Notice**

Dear Ms. Dortch:

On September 1, 2009, Rick Smith, Chairman of the Telecommunications Committee of the American Petroleum Institute ("API"), Lisa Soda of API, Greg Kunkle of Keller and Heckman LLP and the undersigned, met with John Schauble, Nancy Zaczek and Barrett Brick of the Wireless Telecommunications Bureau's Broadband Division, to discuss the API Telecommunications Committee's positions in the above-captioned proceeding.

The Commission's current eligibility rules restrict licensing in the 2.5 GHz Educational Broadband Service ("EBS") to accredited educational institutions and similar governmental and non-profit organizations. During the meeting, we pointed out that there are no such educational institutions located in the Gulf of Mexico. As a result, this large spectrum allocation remains unused in the Gulf of Mexico, even though it could be put to good use supporting petroleum and natural gas operations throughout the area.

As discussed, there is no apparent public policy being served by setting aside a large amount of spectrum for use by educational institutions in a vast area where no educational institutions are present or require the use of the spectrum. This spectrum should be made available -- both as a national energy policy matter and for purposes of efficient spectrum management -- to support petroleum and natural gas exploration and production in the Gulf of Mexico under the Commission's current technical rules.

We described the chronic lack of exclusive spectrum available to critical infrastructure industries for broadband, point-to-multipoint applications. This lack of spectrum is a central factor constraining the oil and natural gas industry's efforts to upgrade to next-generation technology that will promote safety, environmental protection and efficiency.

KELLER AND HECKMAN LLP

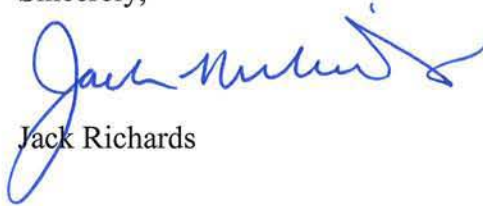
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EBS white space is one option readily available to the Commission to alleviate this problem. Both in remote terrestrial areas and in the Gulf of Mexico, the Commission should ensure that EBS spectrum does not lie fallow.

The attached documents were distributed and discussed during our meeting.

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), a copy of this letter is being filed electronically for inclusion in the public record of this proceeding. Please contact me if you have any questions.

Sincerely,



Jack Richards

Attachments

cc: John Schauble  
Nancy Zaczek  
Barrett Brick

## **Ex Parte Presentation**

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### **Telecommunications Committee of the American Petroleum Institute**

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#### **2.5 GHz EBS Proceeding**

**(WT Docket No. 03-66 et al.)**

The American Petroleum Institute urges the Commission to revise its Educational Broadband Service (“EBS”) eligibility restrictions to maximize the use of the 2.5 GHz band by permitting non-educational institutions to obtain EBS licenses in the Gulf of Mexico. This spectrum is sorely needed to support petroleum and natural gas operations in the Gulf.

Broadband and IP-enabled communications, such as those available through use of the 2.5 GHz band, can be used to ensure the safe, effective and environmentally sound production of U.S. energy resources in the Gulf. The Commission recently recognized in this proceeding that while “[t]he oil and natural gas industry has placed increased importance on the use of rapidly deployable IP-enabled broadband services to support both permanent facilities and disaster recovery efforts [...] the Gulf of Mexico may be an underserved area where spectrum licenses generally are not available.” EBS should be made available now -- as a national energy policy matter -- to support petroleum and natural gas exploration and production in the Gulf.

There is no public policy reason to prevent petroleum and natural gas companies operating in the Gulf from accessing BRS spectrum at this time. Under the Commission’s current rules, there are no eligible entities that could make use of this spectrum offshore and such entities are unlikely to exist in the future. As the Commission found with the Broadband Radio Service 2.5 GHz band allocation “[e]xisting technical rules should be applied to the Gulf Service Areas, and can easily be utilized to resolve any interference problems that may arise on a case-by-case basis.”

The Commission’s treatment of a Gulf Service Area should be virtually identical to that currently afforded terrestrial licensees. The Commission should assign EBS Gulf licenses based on the 35-mile radius geographic service area criteria in order to alleviate the lack of spectrum opportunities in the area within 12 nautical miles of the shoreline and should be assigned according to channel group.

Finally, the Commission should adopt rules regarding onshore EBS “white space” that take into account the lack of educational institutions in rural onshore areas, and ensure that mechanisms are available for non-educational institutions to obtain access to EBS spectrum in such areas.

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### Public Safety, Critical Infrastructure, Business/Industrial Data Transmission Options (Broadband Perspective)

Class	Opportunity	Capabilities										
		Bandwidth	Distance	Reliability	Duplex	Latency	QOS	Point to Multipoint	Mobile	Rural Applicability	Install Effort	Equip. Life Cycle
Public Wireline												
	3002 Analog Data Circuit	VL	H	H	Y	L	H	Y	N	M	M	H
	56K DDS Circuit	L	H	H	Y	L	H	Y	N	M	M	H
	56K Frame Relay	L	H	H	Y	L	H	Y	N	M	M	H
	T1 Frame Relay	M	H	H	Y	L	H	Y	N	M	M	H
	T1 MPLS	M	H	H	Y	L	H	Y	N	M	M	H
	T1 Point to point	M	H	H	Y	L	H	N	N	M	M	H
	Cable Modems	M	H	M	Y	L	M	Y	N	L	L	H
	DS3 Point to point	H	H	H	Y	L	H	N	N	L	H	H
	DS3 MPLS	H	H	H	Y	L	H	Y	N	L	H	H
	OC-3 Point to point	VH	H	H	Y	L	H	N	N	L	H	H
	High Speed POS & GigaBit Transport	VH	H	H	Y	L	H	N	N	L	H	H
Public Wireless												
	CDPD	VL	H	H	Y	M	L	Y	Y	M	L	L
	2G Data	L	H	M	Y	M	L	Y	Y	M	L	L
	3G Data	M	H	M	Y	M	L	Y	Y	L	L	L
	2.5 GHz WiMax	H	H	H	Y	L	H	Y	Maybe	L	L	M
	L Band Inmarsat	L	H	H	Y	H	M	Y	Y	H	L	M
	Ku Band VSAT Commercial	M	H	H	Y	H	M	Y	N	H	L	H
	Ku or C Band Earthstation Satellite	H	H	H	Y	H	H	Y	N	H	M	H
	Ku or Ka Band Consumer VSAT	L	H	H	Y	H	VL	Y	N	H	L	M
Unlicensed Private Wireless												
	902-928 MHz Narrow Band FHSS	L	H	M	N	L	L	Y	Y	Y	L	H
	902-928 MHz Broadband or DSSS	M	M	L	N	L	M	Y	Y	Y	L	H
	2.4 GHz 802.11B/G/N Wi Fi	H	L	L	N	L	M	Y	Y	Y	L	H
	2.4 GHz T1 Microwave	M	M	M	Y	L	H	N	N	Y	L	H
	5 GHz 802.11A	H	L	L	N	L	M	Y	Y	Y	L	H
	5 GHz Broadband or DSSS	H	M	M	N	L	M	Y	N	Y	L	H
	5 GHz T1 Microwave	M	H	M	Y	L	H	N	N	Y	L	H
	60 GHz High Speed Microwave	VH	L	H	Y	L	H	N	N	Y	L	H
Licensed (Shared) Private Wireless												
	173 MHz VHF Splitter Frequencies	VL	H	H	N	L	H	Y	N	Y	L	H
	450 to 470 MHz Low Power Channels	VL	M	M	Y	L	H	Y	Y	Y	L	H
	1427 to 1432 MHz Telemetry Channels	VL	M	H	N	L	H	Y	Y	Y	L	H
	3.65 GHz Private WiMax	H	M	H	N	L	M	Y	N	Y	L	H
	4.9 GHz (Public Safety)	H	M	H	N	L	M	Y	Y	Y	L	H
	80 GHz High Speed Microwave	VH	M	H	Y	L	H	N	N	Y	M	H
Licensed (Coordinated/Exclusive/Protected) Private Wireless												
	450 to 470 Mhz T Band Channels	VL	H	H	Y	L	H	Y	N	Y	L	H
	928/952MHz & 932/941MHz MAS CH	VL	H	H	Y	L	H	Y	Y	Y	L	H
	960 MHz Microwave	M	H	H	Y	L	H	N	N	Y	M	H
	Lower 6 GHz Microwave	VH	H	H	Y	L	H	N	N	Y	M	H
	Upper 6 GHz Microwave	H	H	H	Y	L	H	N	N	Y	M	H
	11 GHz Microwave	VH	H	H	Y	L	H	N	N	Y	M	H
	18 GHz Microwave	VH	H	H	Y	L	H	N	N	Y	M	H
	23 GHz Microwave	VH	H	H	Y	L	H	N	N	Y	M	H

BANDWIDTH VL=0 TO 50K, L=50K TO 500K, M=500K TO 5M, H=5M TO 50M, VH=50M TO 1000M; DISTANCE L=0 TO 1 MI, M=1 TO 10M, H=10 MILE+; LATENCY= L=0 TO 25MS, M=25 TO 150MS, H=150MS TO 1 SEC